

REMARKS/ARGUMENTS

The Office Action mailed February 9, 2005, has been received and reviewed. Claims 1-27 are currently pending in the application. Claims 1-27 stand rejected. Applicant has amended claims 1, 6, 7, 21, 26 and 27, and respectfully requests reconsideration of the application.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Admitted Prior Art in View of U.S. Patent No. 4,175,632 to Lassanske and U.S. Patent No. 5,864,103 to Koeppe, Jr. et al.

Claims 1-8, 10-18 and 21-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art in view of Lassanske (U.S. Patent No. 4,175,632) and Koeppe (U.S. Patent No. 5,864,103). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The obviousness rejections of claims 1-8, 10-18 and 21-26 are improper because they fail to establish a *prima facie* case of obviousness.

Lassanske is directed to a motor driven vehicle with hydraulically controlled variable speed transmission. Specifically in column 5, lines 46-55, and with reference to Fig. 2, Lassanske discloses that the drive ratio of the variable speed "V" belt drive or transmission 21 can be continuously and infinitely varied by controlling the pressure level at the piston cylinder assembly 51 through the use of control valves 81 and 83 in a hydraulic circuit 53, so as thereby to provide speed control, notwithstanding the application of constant voltage to the motor 15. Thus, speed control is available without recourse to resistors or arrangements for differentially

connecting a series of batteries to the motor 15 so as to vary the applied potential. At column 3, lines 32-42, a variable resistance means 19 may also be included to vary the voltage applied to motor 15 that drives pump 55 of hydraulic circuit 53. Lassanske emphasizes, however, that the ability to vary the applied voltage is not the primary mechanism disclosed for speed control.

Koeppé is directed to a limit switch apparatus for use with hydraulic elevator cars. At column 3, lines 12-30, and with reference to Fig. 1, Koeppé discloses that a plurality of normally closed limit switches 5-8 are mounted on an exterior side wall of car 1 for actuation of cams 3 and 4. An interlock circuit 10 is provided that controls elevator car speed in response to actuation of the limit switches based on elevator position and direction of travel.

Independent claims 1, 6, 7, 21 and 26 have been amended herein to clarify that the control circuitry is configured to adjust speed “without employing the use of a valve to control the hydraulic fluid pressure.” None of the cited references, alone or as combined, teach or suggest this limitation.

In Lassanske, variable resistance means 19 may be used to vary the voltage applied to motor 15, but Lassanske expressly states that “the ability to vary the applied voltage is not the primary mechanism disclosed herein for speed control.” (Lassanske at column 3, lines 40-42.) Rather, as illustrated in Fig. 2, variable resistance means 19 work in conjunction with hydraulic circuit 53, including control valves 81 and 83, to vary speed.

Koeppé likewise does not disclose adjusting speed without employing the use of a valve to control hydraulic fluid pressure. Instead, Koeppé indicates that “[t]he elevator car can only move in the up direction if the high and/or low speed ‘up’ circuits of the hydraulic system control valve are open” and “the elevator car can only move in the down direction if the high and/or low speed ‘down’ circuits of the control valve are open.” (Koeppé at column 2, lines 61-66.) “The up direction valves ... are controlled by the KUL relay 27 and its contacts 26. The down direction valves ... are controlled by the KLL relay 16 and its contacts 15.” (Koeppé at column 4, line 66 - column 5, line 3.)

As the cited references fail to teach or suggest all of the limitations of independent claims 1, 6, 7, 21 and 26, they do not render the claims obvious. Claims 2-5, 8, 10-18 and 22-25, which depend from respective independent claims 1, 7 and 21, are also not obvious. If an independent

claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Applicant further submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings as presented by the Office. Specifically, Lassanske repeatedly and expressly teaches away from controlling speed by varying voltage, stating that this approach was “energy wasteful or involved relatively complicated switching devices” and was also expensive. (Lassanske at column 1, lines 13-50.) As such, one of ordinary skill in the art would not be motivated to combine the references as suggested in the present rejection.

In view of the foregoing, Applicant submits that claims 1-8, 10-18 and 21-26 are allowable over the cited references.

Obviousness Rejection Based on Admitted Prior Art in View of U.S. Patent No. 4,175,632 to Lassanske, U.S. Patent No. 5,864,103 to Koeppe, Jr. et al. and U.S. Patent No. 4,836,736 to Neagu

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art in view of Lassanske, Koeppe, and Neagu (U.S. Patent No. 4,836,736).

Neagu is directed to a level ride liftgate with a ramping action platform, and is combined with the Admitted Prior Art, Lassanske and Koeppe for the teaching of a tailgate type lift.

Claim 9 depends from claim 7. As discussed above, none of the Admitted Prior Art, Lassanske or Koeppe teach or suggest the limitation of adjusting speed “without employing the use of a valve to control the hydraulic fluid pressure” and there is no motivation to combine these references as presented. Neagu, either alone or as combined with the other references, fails to overcome this deficiency.

Accordingly, claim 9 is allowable over the cited references.

Obviousness Rejection Based on Admitted Prior Art in View of U.S. Patent No. 4,175,632 to Lassanske, U.S. Patent No. 5,864,103 to Koeppe, Jr. et al. and U.S. Patent No. 5,144,211 to Daggett et al.

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art in view of Lassanske, Koeppe, and Daggett (U.S. Patent No. 5,144,211).

Daggett is directed to a multiaxis robot controller having workpoint torque control, and is combined with the Admitted Prior Art, Lassanske and Koeppe for the teaching of additional switches being added to the control circuit to further alter the speed of the DC motor.

Claims 19 and 20 depend from claim 7. As discussed above, none of the Admitted Prior Art, Lassanske or Koeppe teach or suggest the limitation of adjusting speed “without employing the use of a valve to control the hydraulic fluid pressure” and there is no motivation to combine these references as presented. Daggett, either alone or as combined with the other references, fails to overcome this deficiency.

Accordingly, claims 19 and 20 are allowable over the cited references.

Obviousness Rejection Based on Admitted Prior Art in View of U.S. Patent No. 4,175,632 to Lassanske

Claim 27 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art in view of Lassanske.

Claim 27 has been amended herein to clarify that platform speed is adjusted “without employing the use of a valve to control the hydraulic fluid pressure.” As discussed above, neither the Admitted Prior Art nor Lassanske teach or suggest this limitation and there is no motivation to combine these references as presented.

Accordingly, claim 27 is allowable over the cited references.

ENTRY OF AMENDMENTS

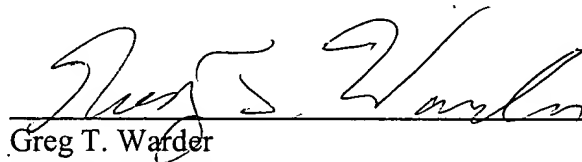
The amendments to claims 1, 6, 7, 21, 26 and 27 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1-27 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

Date: October 3, 2005

A handwritten signature in black ink, appearing to read "Greg T. Warder", is written over a horizontal line.

Greg T. Warder
Registration No. 50,208
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road, Building 2
Palo Alto, California 94304
650-812-1321 Telephone
650-213-0260 Facsimile